

**AMESBURY PLANNING BOARD
CITY HALL AUDITORIUM
MONDAY, SEPTEMBER 8, 2014 – 7:00 P.M.**

Meeting was called to order at 7:02 P.M.

PRESENT: Scott Mandeville, David Frick, Robert Laplante, Howard Dalton, Ted Semesnyei, Karen Solstad, Lars Johannessen.

ABSENT: None.

ALSO PRESENT: NIPUN JAIN, CITY PLANNER, PAUL BIBAUD, RECORDING SECRETARY.

MINUTES: AUGUST 25, 2014: NOT DISTRIBUTED YET FOR APPROVAL. Robert Laplante volunteered to do these minutes for next meeting on 9-22-14.

SIGN APPLICATIONS:

Brushstrokes and Grapevines – 19 Elm Street (Jeanette Learner)

Nipun Jain: The design subcommittee met on this sign. We discussed it with the applicant and they have revised their original filing, both the sign shape and the design. I'll hand out to you a photo of the revised sign. Also you see a photo of the building, to give you a better idea of where the sign will go. It complies with area requirements, height from the sidewalk, and the subcommittee recommends approval of the sign, with no lighting, due to a street light being near it that already exists.

Motion was made by Howard Dalton to accept this revised sign. Motion was seconded by Scott Mandeville. Vote was unanimous.

Amesbury Dental Associates – 41 Sparhawk Street (Dr. Cheney) to ZBA – Variance Required

Nipun Jain: This application, as determined by the subcommittee, exceeds the allowable square footage for that district. The applicant is also pursuing a parallel track of requesting a possible variance to the total sign design and area. We recommend that this item be continued to the next meeting. **Motion** of "so moved" was made by David Frick. Motion was seconded by Scott Mandeville. Vote was unanimous. Continued to Sept. 22.

Family Dollar – 198 Main Street (Roland Paradis)

Nipun Jain: This application was submitted for three signs. This is an existing store on Main Street. One of the signs requested is a replacement of the panel in the free standing directory sign. The subcommittee recommended approval of that sign with one modification: that the background could be made opaque. I spoke with the sign maker who had no issue in doing that. That was our recommendation for that portion of the sign application. The second part of the application was for two wall-mounted backlit signs. In reviewing that application, it was determined that the proposal exceeded the allowable area. The applicant since then has revised the application, which you now have. Now it will be one building-mounted sign facing the private driveway and not facing Main Street. The proposed sign meets the sign area

requirements. One comment was asking if that could be centered on the wall face, vs. to one side or the other of the building.

Lars Johannessen: I thought one of the comments we made was that this sign should face Main Street, like the law says it should be.

Nipun Jain: That's correct, that was another comment made.

Andrew Leesner with the Richmond Company, the landlord: Family Dollar requested the location of the sign over the doorway in the front entrance. That happens to face the parking lot, as opposed to facing Main Street. It is corporate standard and something they like to do. I spoke with Nipun about this. This sign is backlit, turned off at close of business hours, which is 7:00 PM (9 AM to 7 PM).

Lars Johannessen: I ask because that sign will now be facing a residential area, and the light being cast could prove problematic, unless properly addressed.

Nipun Jain: Perhaps the thickness of the plexiglass can be increased to help diffuse the light shining through.

Andrew Leesner: We can look into that, absolutely.

Nipun Jain: The subcommittee's recommendation was to have the sign facing Main Street, but if the board is ok with this location, at the main entrance, that is up to the board. Scott Mandeville suggested a stipulation of lights being shut off at closing time, to accommodate possible change of business hours, it would be covered that at close of business, lights get shut off. Lars also suggested that all the white area on the sign be opaque as well, so it is seen during the day and not at night.

Andrew Leesner: I believe that can be done but I won't know for sure until I speak with the manufacturer.

Ted Semesnyei: We meet again in two weeks. Perhaps you could come back then with all the revisions.

Andrew Leesner: Well, this is holding up Family Dollar taking occupancy, so we were hoping for a decision tonight.

Nipun Jain: I suggest that the board approve the sign with three conditions: 1. to make the thickness of the plexiglass more than what is being proposed so that the light intensity is reduced. 2. To make the white portion of the sign be opaque. 3. The sign be located on the driveway side as presented. If your sign maker cannot conform to these requirements, then let us know in the next 2 days and we'll bring it back to the PLB at the next meeting. If you can confirm in e-mail that this is acceptable, then it will be approved.

Andrew Leesner: So under those three conditions, it will be approved. Otherwise, we come back. (Nipun = correct).

Scott Mandeville: If the plan by Family Dollar is to shut off the signs at close of business, why don't we add that stipulation, just so there is no confusion later.

Robert Laplante: Nipun, since all the signs will be lit, is there any requirement that these colors have to be these in particular? Many times, businesses have color schemes. This is different from all the other signs we've seen. The white background overpowers the sign. My suggestion would be all white, sign the colored sign for them is only a few feet away.

Motion was made by Robert Laplante that the free standing sign conforms to the color style of the existing sign (fifth condition to the sign application that the proposed face replacement on the free standing sign have a white opaque background instead of the proposed color) as well as the other conditions mentioned earlier by Nipun. Motion was seconded by Lars Johannessen.

Howard Dalton: Before you vote, you're falling into the same trap we fall into every time: you're putting conditions on that you'll never know whether they are completed or not. I suggest that three members of the board sign the application. We can all vote. Leave one signature line blank. They are to submit all of the plans with all the changes to Nipun. As soon as Nipun gets them, he'll call me and I will come and put the fourth signature on it. This is my **motion**. You can't rely on a building inspector. Conditions are just not enforceable. So the same motion that was made by Robert and seconded by Lars was amended to include Howard's suggestion. Amended motion was seconded by Robert Laplante.

Roland Paradis, listed as the applicant representing the sign installer for Family Dollar: I was thinking that the thickness of the plexiglass, if you went thicker, it would really wouldn't create any noticeable difference in the lighting. It would be easier to change the lighting. Right now, the lumens are about 800 lumens per square foot, based on the high output fluorescent lamps that they use. So they may be able to use something like LED lights, where you can more accurately control the lumens.

Nipun Jain: So if you are proposing LED lights, would you be able to do them only where the letters are, rather than throughout the box, so that only the light is coming from the letters and not from around the letters?

Roland Paradis: On the wall sign, to do that, you'd have to opaque the white by putting black behind it. You can't make just the letters stand out. But yes, that could be done. Just for the FAMILY DOLLAR, not for the logo. Right now, it is typical lighting. What they wanted was fluorescent lamps, four inches on center, so it would be a typical illuminated sign. Both LED or fluorescent, after a while, they dim down anyway. They are the brightest when you put them up.

Nipun Jain: The condition that the board is putting on the sign is to reduce the light intensity. There option was to increase the thickness of the plexiglass. If that is not possible or it won't produce the desired dimming of brightness, then the other option would be to black out the white and just...

David Frick: What he is saying is that it would still be pretty darn bright. Is what you're saying to reduce the lighting, and if so, what level would you recommend reducing the lumens to?

Roland Paradis: Well, they use fluorescent, which isn't typical since everything is going LED right now. Maybe reduce it by 25 %?

Nipun Jain: The measure of reduction could be to satisfy the .2 footcandles. So you'll have to reduce the lumens to such a point where the light from the sign is no more than .2 footcandles, about 30 feet from the store.

Roland Paradis: If they use LED lighting, they can put any percentage you want.

Nipun Jain: Given that I cannot verify the calculations, would it be fair to say to reduce the lumens so that it does not exceed .2 footcandles thirty feet from the wall of the store?

Roland Paradis: Fair enough.

Nipun Jain: So before the board can sign off on this, the applicant needs to supply me with the calculation, just adding this to the original motion. So, to start all over again, Repeating the conditions: Free standing sign with the background consistent with the existing panels on the sign, meaning white opaque, except for the letters. The building mounted sign will be located towards the driveway side. It will be opaque to the extent that the light intensity 30 feet from the building will not exceed .2 footcandles. The sign by the road, instead of having an opaqued red background will have an opaqued white background. The only color on the free standing sign will be in the letters FAMILY DOLLAR and the colors will be red and orange in those letters. The background will be

opaque white. So now, the wall sign, one sign on the driveway side, approved for the area that is on the revised application, all of the white will be opaqued, and the light intensity from the overall sign shall not exceed .2 footcandles 30 feet from that sign, and that the sign shall be shut off at the close of business. Also, the verification process of three signers that Howard Dalton suggested. The sign application will be revised and submitted to the planning staff in the next two days, confirming that all of these conditions can be met and upon verification of these conditions, the fourth signature will be signed on the application.

Motion of “so moved” was made by Lars Johannessen to approve with the listed conditions. Motion was seconded by David Frick. Vote was unanimous.

PRE-APPLICATION CONFERENCE:

E.F. Shea – 87 Haverhill Road

Nipun Jain: E.F. Shea is looking to add another building which will be their office building along the front portion of their property. The planning staff had met with the applicant, their engineer and building designer and architect on multiple occasions to discuss the general site layout and conceptual building designs. Keeping in mind some of the observations and comments that the PLB has made on such non-residential projects, the applicant is presenting to you tonight a concept site layout and building design which we will incorporate comments from the board that we’ve heard from the board on such projects. That will help to move this project towards a more formal filing.

Brian Morry, Millenium Engineering: With me tonight is Mark Sediera from O’Sullivan Architects, as well as the manager for Shea concrete, Greg Stradus. Shea Concrete is proposing to construct a new office building at 87 Haverhill Road. Associated with the new building will be parking to serve clients as well as work force at the new office building. The project lot at the location is zoned industrial. It is approximately 56 acres in size. There are wetlands on the property, but they are located to the very north of this site. All of the proposed work that Shea proposes to do on this is outside of any 200 foot buffer to any wetland resource area. This was confirmed by Seakamp Environmental approximately two months ago. The proposed office building is going to be two stories with a basement. It is configured so that there will be access from the first floor as well as the second floor, with the building taking advantage of the existing site grades. It will be built into the hill that rises up into the main portion of the industrial site. This building will sit right where the grade change happens, allowing access from the front of the building, used for clients and visitors. Included in the submittal plans shows ten parking spaces out front and an additional 27 parking spots to the rear of the building. We expect that full build out or full employment in this building will be a maximum of 25 employees occupying this building. As mentioned, we show ten parking spaces in front to serve visitors and clients. The 27 spaces in the rear would accommodate employee parking. Re: utilities: there is water and sewer service available from Haverhill Road. The sewer and water main and electric will all be provided. Storm water will take place on site. Currently, the storm water design will include a rain garden to handle the proposed building rooftop runoff. We look to infiltrate the parking areas in the front and back. There will be infiltration chambers used under the parking lots in both locations. One of the key aspects of this project that Shea will do is to incorporate several of the products they actually manufacture at the facility. Those include some of these infiltration chambers. Shea will be able to tell clients that they are using these products themselves on site and that the clients can see how it works. In addition to the new office building, Shea would also like to construct a new storage building. Standing on

Haverhill Road, the office building will be located where the current office is on their main driveway. The proposed storage building will be located along the easterly portion of their property line, approximately 500 feet away from where the proposed office building is going. The storage will be cold storage only, to store products that they use as part of manufacturing, such as hand rails or for concrete steps, etc. There will be no utilities going to the building. There will be no site improvements associated with the storage building. There will be no need for parking with no one working in the building, strictly storage only. No plans for paving around this building either. There will be some landscaping associated with the surroundings once we hear back from the board and get comments from the board on the preliminary designs in front of you. No landscaping improvements are shown as yet on the plans. We wanted to get your opinion on the layout of the buildings, the parking and the storage building before we had a landscape architect design the grounds. When we come to some consensus with the board about what the final site will look like, then we'll bring in Howard Schneider, a landscape architect, to do the project on the grounds. Another issue I'll point out, we are not anticipating a lighting plan for this project. Any lighting will be for security purposes along the building. They don't plan to be open after hours. Hours are usually from 6 AM to 5 PM, at which time they close down, so no lighting would be needed. We discussed this with Nipun already. That is our overview. We look forward to getting your comments on this.

Mark Sediera, architect on this project from O'Sullivan Architects: Brief description of the architectural work on these buildings: This will be a concrete building Shea produces a particle easy span concrete panels where they can create a building out of just concrete. This will be used for all the walls of the building. The look we're going for is, the concrete panels can have different finishes and textures, one of which is brick that looks very nice. We plan on using the brick as well as another texture and color to replicate a granite color. There will also be a deck to the north side with glass and concrete. The deck hopefully will be concrete also. We plan to use a charcoal gray that'll span a metal standing seam roof. A vestibule will be basically glass to create transition into the space, because we want to keep the interiors clean. They use solar power, so I'm confident it'll be a nice piece of architecture a concrete showroom. Solar panels will be used on the storage building.

Nipun Jain: This is not the first iteration of the building design. There were two others previously that we had discussed together. Our recommendation was to go with a more traditional building style that reflects industrial buildings in Amesbury, as well as to keep the architecture simple and symmetrical. This concept reflects some of those design aspects in architectural characteristics. When we were discussing the site layout, we did not look at access as such, because that is not going to change. We did look at building placement and parking. Predominantly, the parking is located in the back for employees, with front parking mainly for clients and visitors. The building will also be built into the site, taking advantage of the topography while still presenting a building that scales to the site as well as to the industrial nature of the area on Route 110. Traffic: there is an existing building that will be removed. There will be some additional employees coming to this new facility, but strictly it is employees that cause no peak volume or traffic counts. It is limited compared to the overall site. (a representative for Shea answered a question by Nipun using the chart plan but spoke well away from the microphone and was inaudible).

Ted Semesnyei: So the principle new building is going where the existing structures is right now.

Nipun Jain: That was the general feedback that we gave them on the general site plan which puts the building in a relationship with the site that it actually takes on a primary building front office rather than strictly a manufacturing facility. That's the goal.

Ted Semesnyei: What borders this property on either side?

Mark Sediera: To the left of it is Shaheens, a food distributor, and to the right (east) there is a pool store, and to the east of that, there is a residential lot, but it is a few hundred feet from our location.

Karen Solstad: Can you go into a little more detail about the storage building? How will it be accessed? There won't be pavement around it, and it looks to be very close to the property line. Any indication for where the doors are on this? Forklift access?

Brian Morry: I'll have Greg talk more about the building. Right now, this will be a pre-fab metal building for the storage building. They are still looking at door placement choices and how many there will be on it. No additional signage will be needed.

Greg Stradis, general manager, Shea Concrete: That building is to be located relatively behind the pool store that exists now on Route 110. The length of the building goes back into our property. The door openings will be along the long wall that faces west on that building. The garage door openings will face west. We figure on three garage door openings, right now. Yes, there will be fork trucks bringing product in and out of that building. Right now, it is a gravel site. Most of our storage area right now is all gravel. We plan to keep it as gravel and not pave. This will keep our storage out of the weather.

Nipun Jain: There is almost a two story building in front of the proposed new storage building. So when you drive by on Route 110, you won't see it.

Brian Morry: Regarding abutters: the site currently is used for concrete product and has extensive fork lift truck traffic. I don't envision travel there increasing by fork lift activity. On the easterly side is the residence, a home, but it has a tree buffer zone that we will not disturb. In the front of the building is a commercial pool store building in front of it on Route 110. We don't have a lot of lighting on the building. We don't operate after hours. We may have some security lighting, but that's it.

Karen Solstad: Since there is a residence there, I'm concerned about lighting. I don't want any spillage of lighting. I also want to know where the doors will be and fork lift traffic will be like.

Greg Stradis: The security lighting will not shine brightly or go beyond our property.

Nipun Jain: It may be helpful if board members drive to the facility.

Greg Stradis: A site visit and tour is possible at any time. Come see for yourselves. We'd like to get the foundations in before winter. We'd like to submit by the end of this month. (thirteen days from today is the deadline).

David Frick: I'd encourage an organized site visit to be planned.

Nipun Jain: Basically, the board has two recommendations for the applicant. 1. Possibly organizing a site visit before hand. 2. Start working with the design team of the applicant and subcommittee of the board for the building design, lighting, landscaping, etc. Then as soon as you provide us with the application, we can start to do the engineering review, for which, if the applicant is ok, I'd like to ask the board for authorization from the board to hire a consultant for the peer review of the storm water and associated drawings. So we'll set up a site visit time and date that works for everyone. I'll let you know by e-mail on that. As soon as the board authorizes me to go set up a contract, I'll let you know what the fees will be, and then you can submit that, and we'll start looking at that as well. Depending on your schedule, we can set up a subcommittee meeting to start discussing your plans for building design, landscaping and

lighting. I want it to look just like the metal building we put up 7 years ago. Just like that, but smaller.

Nipun Jain: I think it would help the subcommittee if you came back with photos of what you want it to look like.

PUBLIC HEARING :

Site Plan Special Permit – 31 South Hunt Road (Clipper City Gymnastics)

Nipun Jain: Legal Notice: Jeffrey Smith submitted a site plan review – special permit request for modifications to an existing building site plan at 31 South Hunt Road in Amesbury. So, the board has discussed this project in a pre-application conference, and had provided feedback to the applicant. In the formal application for special permit site plan review, the applicant responded to those comments by providing photographs and a brief narrative on how the proposal satisfies the proposal criteria under Section 11 C and Section 10 J. The existing facility is not being modified. No parking alterations are being made, no changes to access or egress are being proposed. Essentially, no changes are being proposed to the existing site plan, building or parking layout, building design, and no additions are being proposed. The existing building itself is being used as such by the proponent for an indoor recreational facility. The board comments in the pre-application conference were relative to ensuring that there is adequate turn-around for vehicles, now that this would be a more actively used site by patrons, given the nature of the proposed business, to assess the existing lighting and make it safer for patrons to navigate the parking lot, and as kids come in and out of the facility during evening hours. The applicant provided some explanation during the pre-app conference with regards to the overlap between classes, and how parents and kids would be coming in and out at changeover times. Based on that information, the applicant believes that some of the things the board asked them to look at, such as putting in a speed bump, may not be necessary, given that the number of patrons coming in cars is not at a much more frequent interval as one would perceive, so no changes are expected. There is evidence from photographic documents submitted that there is adequate lighting on all sites. I believe a letter from the fire department stating their satisfaction with sufficient turn around space would be helpful to respond in an emergency, and a letter from the police department stating satisfaction with safety and security. The site was approved by the PLB, so it met requirements of access and egress and safety measures. So we have no objection at this time to the proposed views going into the existing building.

Jeffrey Smith, owner of Clipper City Gymnastics, 115 Main Street: I'm hoping you agree with what I've written. I can explain anything you'd like.

Ted Semesnyei: We talked about speed bumps last time, and I see you have photos here. It shows that the stretch is not really long enough to merit a speed bump. That is helpful. How about the number of parking spaces, any striping plan, maybe the drop off where there will be a designated number of spots quick drop off, perhaps with a three minute drop off area.

Jeff Smith: There will be fifteen parking spots, but looks like he added a little more asphalt and you pointed that out. So it looks like we can get a few more spots in there and safely park 18. Maybe 3 spots in front of the entrance to allow for 3 minute parking, and we will post a sign to that affect. That will help traffic flow.

Ted Semesnyei: A potential concern would be, if everyone coming at the same time looking to use those 3 minute spots, how do you envision people using those spots. Will they be cueing up or driving around, backing up to get out, etc., is there adequate space there and will the signage make things clear how to navigate this area? How will that work?

Jeff Smith: Parents will drop off. It doesn't mean you'd be obligated to use those 3 spots. They can drop off in any area. The 8-15 students for a 45-60 minute class, we feel there are plenty of parking spots. There won't be clutter of vehicles. Most parents leave, but some might want to stay. There's sufficient parking to accommodate that.

David Frick: I make a **Motion** to approve, subject to the board receiving letters from both fire and police departments stating their satisfaction, for traffic circulation and that no overflow parking would be done on South Hunt Road. Motion was seconded by Scott Mandeville. Vote was all in favor.

Nipun Jain said, if the board chooses, that he can draft a decision, as long as we receive letters from the fire and police departments stating their satisfaction with this project.

Motion was made by Lars Johannessen to authorize Nipun Jain to draft the decision pending we receive those letters of satisfaction from both police and fire departments so we can act on this item at the next meeting, and you can add cutoff shields to the lighting, which will bring you in closer conformance to current regulations as an add on to retro-fit and get a shield from the manufacturer to address any light spillage. If not from the manufacturer, then perhaps a custom piece to satisfy that possible issue. The motion was seconded by Scott Mandeville. All in favor.

Motion to continue the hearing to 9-22 was made by Lars Johannessen. Motion was seconded by Robert Laplante. Vote was all in favor.

Request by Nipun Jain for the board to take an item out of order. We have two gentlemen here waiting to hear the Hatters Point hearing. Board agrees. Robert Laplante recuses himself.

Hatter's Point – authorization of peer review inspection services (Administrative item)

Nipun Jain: This project is going to be moving forward with a formal application. They have been doing due diligence work since early spring and throughout the summer. They are at a point where they would like to engage the PLB in preparation for their formal application. This is not a new project, per se, but it is being revised, so there will be changes to the performance and design standards under the Zoning bylaw, and in order to facilitate the development of the project, we had recommended to the applicant to request the PLB for authorization of peer review services of the application material and technical information to date. We have submitted plans but the initial step is for the board to agree to hiring a consultant before hiring a consultant before a formal application is submitted. I request the board to either approve that, and if so, to approve also the staff to have a formal contract with Horsley- Witten to move forward with these review services, which will be paid for by the applicant.

Motion was made by Howard Dalton to authorize peer review inspection services for Hatters Point by Horsley-Witten. Motion was seconded by David Frick. Vote was unanimous with Robert Laplante recused from voting.

CONTINUED PUBLIC HEARING:

Municipal Council Referral – Zoning Amendment (Bill 2014-098) PUD Zoning Districts (continued from last meeting)

Nipun Jain: The board has had a chance to look at this proposed zoning amendment for PUD district. You should have a copy of the proposed zoning, which I will quickly go over what has been proposed so far. Two part amendment so far: 1. to change the table of contents to rename Section 11 L to plan neighborhood development and also to amend Section 6 Dimensional and Density Regulations, specifically Section 6 F 10. The goal of that amendment as a policy is to

allow the PLB to become the relief pending authority by way of special permit for pre-existing non-conforming buildings as it pertains to setbacks, rear or front yards, height, number of stories, only for existing buildings or structures that are seeking reconstruction, extension, alterations or enlargement of pre-existing non-conforming buildings. That is what you see as a proposed amendment to Section 6 of 10. The other change pertains to amending Section 11 L, one being the change to the title, changing it to Planned Neighborhood Development, and then to add several sections to it in order to be consistent with other sections of the Amesbury Zoning Bylaw. As it currently stands, the Section 11 L does not have a lot of the standard regulatory sections that you see in other portions of the Zoning Bylaw. So this has been brought to the attention of the planning office by the PLB in prior instances, as it relates to projects in this district. So we introduced the section for purpose to clarify the objective of a set of regulations that pertain to the PUD district. Second, we added Applicability and Permitted Uses. This mirrors what is there, except for one minor change: in 2 A, where it says “the PLB may grant a Special Permit to allow a structure with more than four dwelling units and B: dwelling units located above ground floor commercial uses and existing proposed or expanded multi floor buildings. The purpose for making this change was based on PLB feedback with regards to the Baileys Pond project. A lot of discussion on that project was about why should we limit the number of units to just four in any one structure. That was a carry through from the original creation of this section, with regards to PUD development. So through this amendment, we were hoping to allow the PLB to create a vehicle by which they could allow more number of units in a structure in the PUD district. The PUD district is unique in that it is one that almost mirrors an overlay district. It is distributed across the city’s boundaries in basically two geographic layers: 1. the Main Street location of the old CVS, Post Office, a small mall and a school are located. So it is a very different neighborhood compared to the other part of the PUD, which is Baileys Pond and the Hat Factory, which are both either on the water or close to water. The residential nature of the latter part of the PUD district, meaning the Hat Factory and Baileys Pond, is also different characteristics. It also differentiates what I call the three pod district, which is Main Street, Baileys Pond and the Merrimac Street. You have historic buildings on one pod, a vacant piece of property on another, and a mixed use on the third. So it really is challenging to have a framework that would address all of these myriad sub-districts, if you want to call it that, in the PUD. We’re trying to address at least the applicability section for these different pods in the PUD district by making this change. 2b: all of the uses, including mixed uses, permitted in the PUD and listed in Section 5 B. Essentially, what this change is, it really is already there and not really a change, but to clarify and state it differently. This is to incorporate the third pod of the PUD, meaning the Main Street pod, where you can have commercial and residential, because it is in a residential area, and it is closer to the CBD, and actually abuts the district that is the CBD. From a land use policy, it is an area where you want to see. When we were dealing with Baileys Pond, the residents wanted to see less dense, the R20 density in the PUD. Somehow, that has not been captured, and that was one of the comments from the PLB at the last discussion on this. But we think that as it stands right now, it is not perfect, but it does not necessarily address the concerns of the board on the Baileys Pond, which is not the attempt here, but I want the board to know that this is something of a gray area which the board will have to decide whether it is acceptable or would they like us to fine tune it more. The third section that was added is Dimensional and Density Regulations. This is not necessarily changing anything, but rather clarifying what the dimensional requirements will be. All these requirements are stated in other portions, but not clearly stated for the PUD districts, which is our reason for including them. We talk about

dimensional requirements, the parking requirements, the usable open space, and the number of dwelling units, which was never specified in the current zoning bylaw provision. So this is an attempt to really give the board a criteria for establishing the number of units in a PUD development. This is more a design to address where you have vacant property as in Baileys Pond. The fourth section is Application and Procedural Requirements. This is to outline a more clear and consistent process, meaning it is a pre-application review, an application, and additional application materials based on the proposed project and the nature of the project. Then, if it is an incomplete application, which is primarily to address the situation we had at Baileys Pond, where over 18 months the requested information was not provided and the application was not complete. It reflects and addresses that type of situation. Design and Performance Standards: this is to be consistent with the other sections of the bylaw and to bring it into compliance with site plan review design and performance standards, and in case where there is a special permit granted to proposal for relief from the front-side and rear setbacks, or heights, or lot areas, then those criterias would have to be met, as well. That is the general backbone of the proposed amendments. The board had asked at one of the meetings for more language with regard to the actual number of units for calculating the density. I'm open to suggestions. My difficulty is looking at the three pods in the PUD and trying to come up with a consistent framework that would address the three unique characteristics in the PUD district, and how to establish that, whether it is density or design parameters or other issues.

Howard Dalton: One of the problems we've had at Baileys Pond (Fafard project) has been that he had no recreational amenities for anyone. If you look at a plan unit development district, you take the open space and you figure how many units you are going to put in, you figure out the parking, and the rest is density. So we could limit that somewhat by putting a percentage per unit of dedicated recreational amenities that can't be put in the open space. This isn't just hiking trails, I'm talking clubhouse, tennis courts, swimming pool, whatever. That would tend to keep the density a little less and also provide some amenities, so people just aren't living in a big apartment complex.

Nipun Jain: That's an excellent point. One of the things we tried to do proposed amendment is, if you see usable open space, it does say "except the projects that are only proposing alteration, extension or expansion, meaning the mill buildings, in all such developments where 16 or more units per acre proposed, an area shall be set aside within the usable open space for a neighborhood public park of sufficient area and in a location to be determined by the board. From what I hear, you are saying "let's not leave it to be determined later on, but to establish a threshold and, based either on lot area or number of units" and I agree with you.

Howard Dalton: The parking and the square footage turn out to be the same, so you take the open space, take that away, and divide by two, and that is your density area. You can cut that down now by saying "thousand square feet per unit will be dedicated to amenities, or 100 square feet, however it calculates out, pulling these numbers off the top of my head. We could do a number based on 200 units and see what would be a reasonable value or percentage.

Nipun Jain: There are two benchmarks that we can use. One is the subdivision rules and regulations require that if there are over 20 lots subdivision, then a certain portion of the parcel needs to be set aside as a neighborhood park. That is the genesis of where this came from. The second is: there are some playground standards that we have with a certain number of habitants living in a development, and you need to provide X square footage of playground. We can look at those architectural standards, to come up with a threshold for active recreational space in a development of certain size.

Robert Laplante: I suggest you be very careful in doing this, because depending upon the type of development, the size of development, whether it is, say it's an over 55 community, would you really want to require a neighborhood playground?

Howard Dalton: No, any type of recreational use for the inhabitants. It could be tailored to the specific project, but I agree.

Ted Semesnyei: That was the most frustrating part of all the Baileys pond discussions was having that discussion over and over again about the importance of the amenities. We should work something out, some flexibility.

Lars Johannessen: Hatters Point is already planning on having a clubhouse in that they have a gathering room.

David Frick: This all points out to though is that this isn't something we can put together quickly. It has to be thought out. Hatters Point, which is 55 plus, which is PUD. We know they will be doing something quickly. We want to have it work for them. But we also have Baileys Pond and the whole thing on Main Street where CVS used to be. That is PUD and it would have to work in that area as well. It may be a matter of having Nipun go back and see if he can give us suggestions on how to do this, because we want the recreational type thing. I don't know how we'd do this on our own. Can you help with it, Nipun?

Nipun Jain: Sure. You are looking for recreational areas, whether they be outdoors or indoors. Some cases might be based on the use being proposed. Senior housing is different rec use as opposed to 2-3 bedrooms with family areas, where different rec usage is needed. It should not be devoid of any recreational space, indoor, outdoor or to determine the nature. I can write the language, if it is the consensus of the board. But the rec space should never be taken out of the open space. It'll be a density reducer, also.

Howard Dalton: You also have to be careful of is how population density is calculated in a PUD. If you allow them to build more than 4 units in a structure, you are going to have a lot of density. Conceivably, they could build barracks. It's ridiculous, but think about it in terms of that, as long as they separate the buildings, there is no control over the number of people. So either you want to come up with some kind of percentage, or some kind of multiplier that ties the square footage of land into a density. If you start allowing major buildings, they can go up three stories, too.

Nipun Jain: That is one of the things I struggle with, based on the feedback that you provided at our last board meeting. I had two thoughts: we are dealing with two scenarios. 1. where we have an existing building. Then you have existing non-conforming buildings and lots. Then you have vacant land. We also have the unique circumstance of where there is a project that was approved but didn't move forward, and approval was granted for a project based on the proposal at that time. One is to deal with the vacant lot. Let's set that aside for a moment. If you are dealing with a built out parcel, then we do have existing regulations on the books, such as the Lower Millyard. We looked at density and have addressed that. Calculations based on what should be allowed. So we could use that as an example. My point is, it would not be just based in a vacuum or out of context. The Lower Millyard is the densest part of the city. We're looking at a reasonable density here, where it would balance density with open space, existing non-conformities, parking, adequate access, etc. etc. So yes, we can, but there would be two different formulas: one for vacant land and one for built out. We can't have a one size fits all for both scenarios. The approved density for the Hatters Point was 80 plus 40, so 120 to 140 units. The original proposal was between 80 and 100 units. I think the board had approved that with an overwhelming majority. I was going to use that as a threshold or base where we can start, and use criterias for

determining the appropriate density, which would achieve two objectives. 1. it would established formula, and also allow a project that was approved by the board to still be considered valid and to move forward. You don't want is a permit that was approved to become invalid because of the change in zoning at a time when a building permit is being pulled at a later date. Is that a fair way to navigate this density issue between vacant land and developed land?

(board agrees it is). So keeping that in mind, I will work on the density issue as well. I know that it was the second most important thing for the board at the last discussion. But I wanted to get more feedback from you guys.

Lars Johannessen: I find it interesting that all three of these PUDs have water close by.

Robert Laplante: The basic thing for any requirement is the economic value of that property. The more amenities you put in, the more it is going to cost. And who is going to be paying for these costs is going to be the people buying in there. So when you are going to make a cookie cutter thing that goes to every possibility, it doesn't work. You have to tailor requirements to the various sites.

Karen Solstad: We've also had developers who want to go to the lowest common denominator right down the line. I think we want to have some teeth where we say we need to offer recreational space.

Nipun Jain: Each project is made unique by its own amenities. Hat Factory is unique by it's location, by the vistas, marina, etc. The uniqueness associated with the project is what adds to the various criterias. The challenge you have as a regulator is if you just do site plan review, you have to list everything, and everything is of equal importance, pretty much, unless you make it a special permit, then you can prescribe significance to the uniqueness or the unique characteristics of the project. If you have a special permit vehicle, you can ascribe different values to different aspects of the project and value and judge the project on the merits.

Lars Johannessen: Part of what I was saying before is that the value of Main Street is not what you see, it is what you don't see. Ex: waterfront on the Powow River.

Nipun Jain: Main Street is very different from the other two PUD pods. It has a more residential neighborhood character, compared to these two. It's a different scale, probably the flattest of both the other pods in PUD, and it lends itself to commercial use vs. either Hat Factory or Baileys Pond. The idea of having a case by case approach to these development areas works in a regulatory arena where you have a more discretionary approval process. That can only be through a special permit vehicle. So it is possible, but is that the direction that the board would like to go?

Howard Dalton: Maybe it would help if these pods were named one, two, and three.

Jack McElhenny, attorney for Hatters Point Capital, which is the entity that has the Hat Factory under agreement: We are ready to file for our site plan review and just waiting to see what that zoning regime that we'd be filing under. The question was whether we would have a consolidated review with the PLB or have to deal with the ZBA and the height issues. There are some policy issues embedded in this and it impacts multiple properties across the city. We would probably go ahead and file under the existing zoning, at this point, because we're anxious to move forward, but we'll still participate in this process and give you our feedback. That's our only comment.

Nipun Jain: If you do move forward with that, Jack, you'll probably have to file for the variances, as well. But you have provided me with some direction on what changes need to be made. I understand the policy. I can draft the regulations that address that policy and bring it to

the next meeting. I will probably make some of these provisions to be required by special permit, to address things that do not apply in every area.

Motion was made by Howard Dalton to continue this public hearing to Sept. 22, 2014. Motion was seconded by Lars Johannessen. AIF.

ADMINISTRATIVE:

Request for bond release \$55,170.34 – 277 Elm Street (Amesbury Animal Hospital)

Nipun Jain: I am handing out the bond review report from Horsley-Witten, and they have made recommendations onto how much money should be released, and to hold back a certain balance. As of the date when this was done, I reviewed what has been completed on the site, and more work has been done since that time. My recommendation was going to be to actually hold \$20K and release the remaining amount, and also to authorize the release of another \$10K within 30 days if items 1 and 2 are completed, and that the landscaping is fully installed and has survived the first 60 days. I recommend this because this is a design build operation, and so the money is being fronted, and it is all cash. By the builder, so they cannot pay their contractors or they're double paying for the same work. So at the end of 30 days from today, the board would be holding \$10K through one growing season to assure that the landscaping is complete. Let me simplify that: Horsley – Witten recommends that the balance that the board should hold is \$24,322. I'm recommending that the board hold only \$20K. Because I believe there has been more work done.

Motion was made by Howard Dalton to get a letter from the Horsley-Witten engineer at the Sept. 22 meeting, detailing what has been completed since we released this money, then we can release another \$10K to release. So we release. \$35, 170.34, leaving a balance of \$20K. Motion was seconded by David Frick. Vote was 5 for, and Karen Solstad and Robert Laplante voted against. Motion carries.

Performance Bond and Erosion Bond approval and authorization of inspection services – 241 + 243 Main Street- Cumberland Farms

Nipun Jain: We have received a request to establish the value of the performance bond and erosion control bond, and it is being reviewed by Horsley-Witten. I just need an authorization from the board for Horsley-Witten to be able to do inspectional services for this project.

Howard Dalton makes a **motion** of "so moved." Motion was seconded by Lars Johannessen. Vote was unanimous.

Motion was made to continue this meeting past 9:30 P.M. by Lars Johannessen to an additional 15 minutes. Motion was seconded by David Frick. Vote was unanimous.

Lot Release - 99 and 101 Friend Street (Wojcicki)

Nipun Jain: We already see a frame going up. It's a little late to be asking for lot releases. He is building without a lot release. The covenant clearly states that if you cannot produce documents or evidence that you need to get a lot released, you can put a performance bond. The issue was, there was a right-of-way improvement, storm water improvements, calculations, etc. etc. that the developer agreed and then forgot that he had to get sign offs from the DPW. He has provided the information to DPW, and they have not gotten back to me or the developer. So the developer is claiming that it has been 10 days. Why should I be penalized for DPW not responding. I told

the developer that this is not my problem, that you had the decision for three months. You should have done this work in advance. So if you put the PLB in this awkward position, here's what you are going to do. 1. I will review the drawings which is required to do for the building and sign off on that. That has been done. This is lot 2, the address on the parcel. He has provided the engineering report to DPW, and I'm waiting for DPW. The third thing that I asked him was, I need 5000 per lot, if you want all the lots released, as assurance, and then you are going to provide me with another performance bond, calculated by DPW, as their estimate for the roadway improvements. I haven't received the third thing. I was going to say to them, I have the documents for you to sign, you sign as you are required to do, I will hold off one signature until I get the check, and only release lot 2. The other lots should still be under covenant until you give me everything. There is one foundation in and there is a building being erected already.

Scott Mandeville: I don't like being put to a decision based on "this is already started, so what are we going to do about it?" I think this is the kind of thing that the board is getting walked over, that the board should not be.. A cease and desist cannot be done at this point.

Nipun Jain: You can take a vote to rescind the decision approving on the subdivision. That is going to get really ugly.

Robert Laplante: This is a request that the lot be released. We approved the subdivision. I remember we liked it, thinking they did a good job. So this is a legal thing that happens in all subdivisions. This is a reputable, experienced builder.

Howard Dalton: The building office is not supposed to let out a building permit until he gets a lot release.

Nipun Jain: Mr. Wojcicki did not go to the building inspector. He sent his foreman, and the foreman did not check the conditions. I'm not absolving anyone of their responsibilities, but really the premise of that approval by the PLB is to inform the developer that we will be working with you, and instead of requiring all these things up front, we'll approve the project provided you agree to provide these documents and carry out these obligations before you pull a building permit. So we trust that you will do these actions.

David Frick: So he got the building permit? (yes). So this is shame on us for having our guy letting him start to build without the lot release?

Howard Dalton: The thing is, he can't sell the houses without releasing the lots.

Nipun Jain: The whole point of the lot releases is that we will work with you, but we will only release the lots if you do what you are supposed to do.

Ted Semesnyei: We need to trust that Nipun has all the information and his recommendations are based on the best possible solution going forward.

Nipun Jain: I'm acting as a mediator. I'm trying to work both the developer and the PLB. I'm frustrated in that how do we end up with having to deal with this situation not of our creation, but at the same time, I'm looking at the implications, delay, nightmares and end up spending 40 hours more on this thing that I'm trying to avoid.

Karen Solstad: How can we, as a board, both help you and send a message to the developer that says "not for nothing, but you know the rules, you had it and now you've put us in a really awkward situation, and we're not happy about it. For a long time, it was easier for people to do something and then beg for forgiveness than to ask for permission.

Ted Semesnyei: I think we need to have a come together moment between the various departments, offices, Amesbury, and the PLB to try to explain our point of view, and try to help streamline the process from the town's point of view. Just so everyone is clear on what everyone's expectations are.

Nipun Jain: That may never happen, but it is probably a discussion for another time.

Howard Dalton: To Karen's question: the way you get there is one developer at a time, you tell them we are not going to release the lots until they either provide a bond or finish the road. That's the rules of the subdivision control law.

Nipun Jain: I'm just surprised that they agreed to have a covenant, the covenant is on record, and ...

Howard Dalton: We don't have the bond. They could finish the houses, walk off, and never do the street.

Scott Mandeville: And this is an experienced local builder who knows the rules.

Nipun Jain: I said to Mark Wojcicki "you are not an inexperienced person, you are a reputable developer, how did this happen?" He said I wasn't aware of this. But that is his job. How could he not be aware?

Motion was made by Howard Dalton to disapprove the lot release request until such time as a bond is posted or the road is complete. Motion was seconded by Scott Mandeville.

Karen Solstad: I make the suggestion that this type of dilemma that we're in be pushed upstairs to the executive office, because we don't have the power to ask the building inspector to follow our agreements that we make with developers. That's his job. I have a feeling that other people in town hall don't feel that they're in an awkward position, but we're always the ones feeling like we are in an awkward position, because we're just trying to get people to abide by the decisions that they've agreed to.

Howard Dalton: As a planning board, we have to write it, we can't ask Nipun to do it.

David Frick: My concern is more with our building inspector than it is with the builder. Anybody can come up and make a mistake, or make a request for permit. But whoever looks at it needs to say "no, you haven't given us this yet, so you don't get the building permit yet." So it isn't his fault, it is our employee's fault.

Karen Solstad: But we have never had the power to do something. We've run into this for years.

David Frick: I understand. Maybe we need a better process. Maybe you have to go to the PLB first to make sure things get done. Then go to the building inspector and...

Nipun Jain: It's there, in the decision. I brought the decision.

Howard Dalton: It's how you're going to fix it. We've got a problem. We need to deal with it fairly and toughly, then they will get to realize that they have to dot the I's and cross the Ts. If we let things slide...

Nipun Jain: I will sign a form, prior to issuance of building permit, you have to get this sign off sheet, which includes my signature, from me before applying for a building permit. This is in the decision, which is on record, which everybody and anybody can pull off the registry of deeds. And I have not signed that yet. So he should not have a building permit. But I think that we do need to have a formal check list or whatever, because what we have has no teeth in it, and people are just going to keep building anyway. So we do have to write that letter and say "look, this was never signed, and Denis issued the permit." We have to give them the evidence, and say guys, this doesn't work.

Ted Semesnyei: We off point. We have a motion on the floor and a second. Vote?
Vote was unanimous.

37 Middle Road – Inspection Report – Violation

Nipun Jain: This is a big fiasco. This is the 6 lot subdivision that has been in limbo since 25 years, finally took off three months ago. This is Eastern lights. These guys did nothing for two months. Our inspector went there, saw no activity, wasn't told about a construction schedule, hasn't been given recorded plans, all of a sudden he shows up two weeks ago, sewer is done, water is done, sites been graded, no inspections, and that is the report that I got. I don't know if it is in your packages or not. So how do we sign off? He is probably looking to get building permits, so I told Denis "lots have NOT been released, there have been tons of violations, I told the DPW director, and that's the other thing.

DPW director can easily stop work, too. They can tell people they can't be doing this without inspections. You either call us or the PLB for inspections. That is why I put this here. I had told the developer that I will be presenting this issue to the PLB, and there will be a cease and desist issued through the request of the PLB, and you better be here.

Howard Dalton: This happened to us on Back River Road. We made them tear up the road because he screwed up the drainage. You have to get tough with these guys.

Nipun Jain: So the work that has been done has not been inspected. It has to be dug up now for it to be inspected. I'm discussing this to bring it to your attention. You are asking me what action the board can take. The board can authorize me to instruct the building inspector to issue a CEASE AND DESIST order, based on the fact that the board's decision has not been met, and until all violations have been resolved.

Motion of "so moved" was made by Karen Solstad. Motion was seconded by Howard Dalton. Vote was unanimous.

Disposition Committee:

Motion was made by David Frick to nominate Robert Laplante to the new Disposition Committee, subject to when they meet. Motion was seconded by Karen Solstad. Vote was unanimous.

Nipun Jain: I will bring up **Fourth Street**, even though it is not on the agenda. Brad Kutcher is putting in foundations with a permit being done yet.

Howard Dalton: I make a motion to have Nipun instruct Denis Nadeau to issue a CEASE AND DESIST order on Fourth Street and Brad Kutcher for non-compliance, because the lots have not been released by the PLB, yet somehow he got the building permit. Motion was seconded by Lars Johannessen. Vote was all in favor, but David Frick abstains.

Motion to adjourn tonight's meeting was made by Howard Dalton. Motion was seconded by David Frick. Vote was all in favor.

Meeting was adjourned at 9:53 P.M.